

COMMISSIONERS APPROVAL

GRANDSTAFF   
ROKOSCH   
THOMPSON   
CHILCOTT   
DRISCOLL 

Members Present.....Commissioner Carlotta Grandstaff,  
Commissioner Jim Rokosch, Commissioner Alan Thompson and Commissioner Greg  
Chilcott

Date.....July 1, 2008

Minutes: Glenda Wiles

The Board met for a public hearing on the Lone Pine Estates Subdivision. Present were  
Planner Randy Fifrick and Developer's Representative Jake Kammerer. The hearing was  
called to order by Commissioner Grandstaff with the Pledge of Allegiance.  
Commissioner Grandstaff called for ex parte' communication or conflict of interest from  
other Board Members and hearing none began the public hearing.

Randy presented a staff report as follows:

**LONE PINE ESTATES  
SEVENTEEN-LOT MAJOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Randy Fifrick

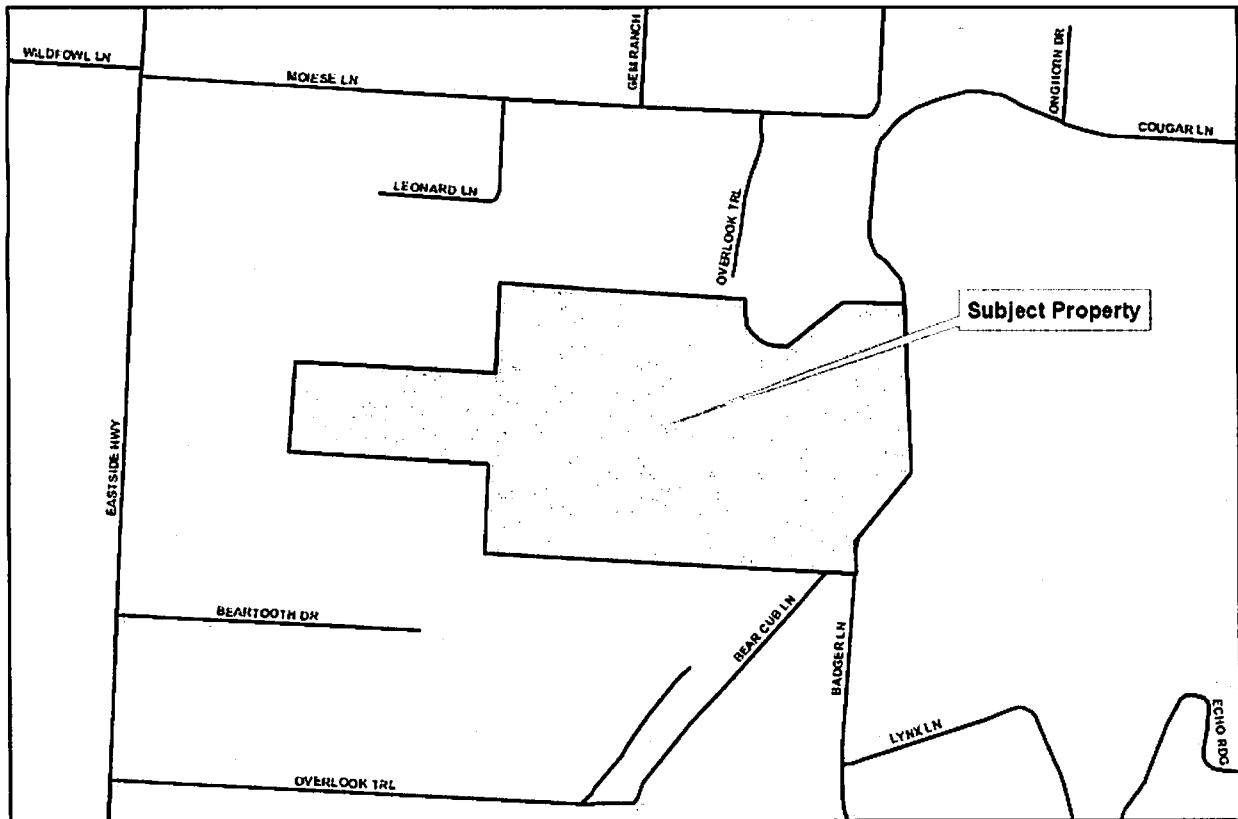
**REVIEWED/  
APPROVED BY:** Renee Lemon

**PUBLIC MEETINGS:** Planning Board Public Meeting 3:00 p.m. June 18, 2008  
BCC Public Hearing: 9:00 a.m. July 1, 2008  
Deadline for BCC action (60 working days): August 5, 2008

**SUBDIVIDER:** Michels Development, Inc.  
1727 South 12<sup>th</sup> Street West  
Missoula, MT 59801

**REPRESENTATIVE:** Jake & Jean Kammerer  
P. O. Box 134  
Stevensville, MT 59870

**LOCATION OF REQUEST:** The property is located north of Stevensville off Eastside Highway. (See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Pt Lot 12, Lot 20A, Lot 21A-1, Lot 22A, Blk 9,  
Sunnyside Orchards 3; S ½ of Section 12, T9N,  
R20W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined sufficient on May 9, 2008. Agencies were notified of the subdivision on October 2, 2007 and May 9, 2008. Comments received from agencies are Exhibits A-1 through A-14 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.**

**LEGAL NOTIFICATION:** Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated May 9, 2008. One public comment has been received to date (Exhibit B-1).

**DEVELOPMENT  
PATTERN:**

Subject property: Vacant Rural Land  
North: Residential Development  
South: Residential Development  
East: Residential Development  
West: Vacant Rural Land

**INTRODUCTION**

The subject property is located northeast of Stevensville off Eastside Highway. The proposal is for 17 residential lots on 34.86 acres. The applicant will be responsible for constructing the internal subdivision road, Lonesome Pine Trail, to meet county standards. The subdivision is located approximately 0.45 miles from the Lee Metcalf National Wildlife Refuge. Covenants to address the proximity to the refuge have been included in staff's recommendations. The proposal takes up an area that encompassed 18 lots of the Overlook Trail Estates Subdivision. The Overlook Trail Estates subdivision was approved on March 11, 2000 by the BCC, but was never completed.

*Staff recommends conditional approval of the subdivision proposal.*

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS  
JULY 1, 2008**

**LONE PINE ESTATES  
SEVENTEEN-LOT MAJOR SUBDIVISION**

**RECOMMENDED MOTION**

That the Lone Pine Estates Subdivision be ***conditionally approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. *(Staff Note: The Board of County Commissioners should make a decision regarding parkland dedication as part of the motion.)*

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE  
SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

**Notification of Proximity to Agricultural Operations.** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), Effects on Agriculture*)

**Notification of Limitation of Access onto Road.** A "no-ingress/egress" restriction exists along the northern boundary of Lot 22-A3 to prevent access onto Overlook Trail. All lots within this subdivision must use the internal subdivision road to access their lot(s). This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

**Notification of Water Rights.** Lots within this subdivision do not currently have the right to take irrigation water out of the infrastructure located within the subdivision. Taking water without a water right for irrigation purposes is illegal. (*Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities*)

**Notification of Proximity to Montana Rail-Link Railroad.** This subdivision is located near the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

**Notification of Irrigation Facilities and Easement.** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The downstream water rights holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easements to maintain the ditches. (*Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities*)

**Notification of "very limited" Soils.** Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

**Notification of Road Maintenance Agreement.** The subdivision road, Lonesome Pine Trail, is not maintained by Ravalli County, the State of

Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), Effects on Local Services*)

**Notification of No-Build/Alteration Zone.** Within this subdivision there is a no-build/alteration zone, as shown on the plat, to restrict building in areas with steep slopes. No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Living with Wildlife.** Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as white-tailed deer, mule deer, black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov). (*Section 3-2-8(b)(v), Effects on Agriculture, Effects on Natural Environment, & Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to

prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)

- c. **Garbage** must be stored in secure animal-resistant containers or indoors to avoid attracting animals such as raccoon, black bear, and other wildlife. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (including salt blocks), attractants, or bait for deer, sheep or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such bears,

mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. Residents of this subdivision must recognize that the subdivision is located within one-half of mile from the Bitterroot River and its associated sloughs and wetlands, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

**Proximity to Lee Metcalf National Wildlife Refuge.** This subdivision is located in close proximity to the Lee Metcalf National Wildlife Refuge. The Refuge was established in 1963 to provide habitat for migratory birds. The mission of the Refuge is to manage habitat for a diversity of wildlife species with emphasis on migratory birds and endangered and threatened species, and to provide compatible human benefits associated with Refuge wildlife and wildlands. For more information on the Refuge contacted them at 4567 Wildfowl Lane Stevensville, MT 59870, Phone: (406)

777-5552. The following shall be followed to help preserve the integrity of the Lee Metcalf Wildlife Refuge: *(Section 3-2-8(b)(v), Effects on Natural Environment, Effects on Wildlife & Wildlife Habitat)*

- a. Fertilizers can adversely affect groundwater quality and ultimately wildlife and plants. Lot owners should choose plant species that require minimal fertilizer.
- b. Pharmaceuticals of any kind shall not be flushed down a toilet or sink, as there is a possibility that these substances could contaminate water supplies. Lot owners shall contact their local pharmacist for appropriate disposal of pharmaceuticals.
- c. It is recommended that construction, specifically tree-removal, clearing, and other dirt moving activities occur outside the timeframe of April 1<sup>st</sup> to July 15<sup>th</sup>. This timeframe is crucial to the nesting success of migratory birds that will utilize habitat in pastures, wetlands, and tree stands.
- d. No outdoor cats shall be allowed.
- e. To reduce impacts on the native environment it is recommended that native trees be used for landscaping.

***Waiver of Protest to Creation of RSID/SID.*** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), Effects on Local Services)*

***Lighting for New Construction.*** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). *(Section 3-2-8(b)(v), Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*

***Building Standards.*** The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings



be constructed to meet state building code requirements. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Three Mile Rural Fire District has adopted the Fire Protection Standards, which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

**Access Requirements for Lots within this Subdivision.** The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

**Radon Exposure.** Owners must understand and accept the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

**Wood Stoves.** The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v), Effects on the Natural Environment*)

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v), Effects on Agriculture and Natural Environment*)

**Archeological Resources.** If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

**Maintenance of Fencing along Supply Ditch.** The owners of Lots 20A-4, 20A-5, 21A-4, 21-A5, 22-A4, and 22-A3 shall be responsible for maintaining the safety fencing located along the eastern subdivision boundary. Each lot owner shall be responsible for maintaining the portion of the fence on their lot to meet the specifications of the Ravalli County Subdivision Regulations. (*Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities and Public Health & Safety*)

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v), Effects on Local Services*)
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

6. The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
7. The subdivider shall place an encumbrance on the final plat that stipulates \$700 per lot shall be contributed to the Stevensville School District upon first conveyance, including lease or rent, of each new lot (\$11,900 total). *(Section 3-2-8(b)(v), Effects on Local Services)*
8. The subdivider shall submit an (amount)-per-lot contribution made to the County Treasurer's Office to be submitted into an account for Public Safety (Sheriff, E-911, OEM) prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety)*
9. The final plat shall show a no-ingress/egress zone along the northern boundary of Lot 22-A3 to prevent access from this subdivision to Overlook Trail. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
10. Prior to final plat approval, the applicant shall construct an off-road bus shelter near the intersection of Lonesome Pine Trail and Eastside Highway. The bus shelter must at a minimum include a covered area of at least 32 sq. feet, protection on the north and south ends of the shelter and a bench of at least 5 feet in length. *(Section 3-2-8(b)(v), Effects on Local Services)*
11. A five-foot wide controlled density fill trail shall be constructed within the 60-foot wide easement along the outside perimeter of Lonesome Pine Trail. The trail shall be shown on the final plat within the easement of Lonesome Pine Trail along the entire stretch of the internal road ending at the bus shelter near Eastside Highway. The trail shall be constructed prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Public Health & Safety)*
12. The no-build/alteration zone on slopes greater than 25% shall be shown on the final plat as proposed on the preliminary plat. *(Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety)*
13. The applicant shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Stevensville post office's standards, and that the installation has been approved by the Stevensville Post Office prior to final plat approval. Alternatively, the applicant shall provide evidence from the Stevensville Post Office that a CBU(s) is not required. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

14. Prior to final plat approval the applicant shall repair/remodel the tank/headgate located on Lot 21A-4 so as not to be a public health and safety hazard. (*Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety*)

#### **FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.*

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
  - a. Project name
  - b. Title block
  - c. Certificate of registered owner – notarized
  - d. Certificate of registered land surveyor with seal
  - e. Certificate of governing body approval
  - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
  - g. Certificate of public dedication
  - h. Certificate of park cash-in-lieu payment
  - i. Other certifications as appropriate
  - j. North arrow
  - k. Graphic scale
  - l. Legal description
  - m. Property boundaries (bearings, lengths, curve data)
  - n. Pertinent section corners and subdivision corners
  - o. Names of adjoining subdivisions/certificates of survey
  - p. Monuments found
  - q. Witness monuments
  - r. Acreage of subject parcel
  - s. Curve data (radius, arc length, notation of non-tangent curves)
  - t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
  - u. Lots and blocks designated by number (dimensions/acreage)
  - v. Easements/rights of ways (location, width, purpose, ownership)
  - w. Dedication for public use

- x. No-build/alteration zones
  - y. No-ingress/egress zones
  - z. Irrigation canals including diversion point(s), etc.
  - aa. Existing and new roads (names, ownership, etc.)
  - bb. Existing and proposed utility, irrigation, and drainage easements, as shown on the preliminary plat, shall be shown on the final plat.
  - cc. The no-build/alteration zone shall be shown on the final plat as shown on the preliminary plat.
  - dd. The internal subdivision road shall be labeled as a 60-foot wide public road and utility easement on the final plat.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
  4. Any variance decisions shall be submitted with the final plat submittal.
  5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
  6. The final plat review fee shall be submitted with the final plat submittal.
  7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
  8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
  9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
  10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
  11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
  12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurers Office for the payment of cash-in-lieu of parkland dedication. *(Staff Note: Please submit appraisal report to the Planning Department. Staff will schedule a meeting with the BCC to determine whether or not the report is acceptable. Once the BCC has approves a report, the applicant can submit the funds to the County Treasurer's Office and provide a receipt to the Planning Department.)*
  13. Road and Driveway approach and encroachment permits from RCRBD and/or MDOT as appropriate.
  14. Evidence of Ravalli County approved road name petitions for each new road.
  15. Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal.
  16. Road certification(s). *(Staff Note: A professional engineer's certification on the road plans and final approval from the Road Department shall meet this requirement.)*
  17. Utility availability certification(s) shall be submitted with the final plat submittal.

18. A Road Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.
19. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
20. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations.
21. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).
  - a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, construction of the internal subdivision roads, construction of walking trail, construction of bus shelter, and construction of the irrigation ditch fencing.

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

#### **A. Provides easements for the location and installation of any planned utilities.**

##### **Findings of Fact**

1. Existing and proposed utility easements are located along Eastside Highway, Lonesome Pine Trail, and along the eastern property line of Lots 20-A4, 20A-5, 21-A4, and 21-A5 as shown on the plat. (Lone Pine Estates Subdivision Application and Preliminary Plat)
2. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)

##### **Conclusion of Law**

The proposed subdivision application provides for utility easements.

#### **B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

##### **Findings of Fact**

1. The subject property is accessed by Eastside Highway and Lonesome Pine Trail. (Lone Pine Estates Subdivision Application)
2. Eastside Highway is listed as a state-maintained road. (Ravalli County GIS)
3. Lonesome Pine Trail will be located within a 60-foot wide public road and utility easement, as shown on the plat. The 60-foot easement will consist of an existing 30-foot wide private easement (Document # 579110) and a proposed 30-foot wide private easement. Combined this will provide the required 60-foot wide easement. (Lone Pine Estates Subdivision Application and Preliminary Plat)
4. The subdivider is required and is proposing to build Lonesome Pine Trail to County standards. (Lone Pine Estates Subdivision Application, Final Plat Requirement 16)
5. The subdivider has attained an approach permit from the Montana Department of Transportation (MDT) for the Lonesome Pine Trail approach off of Eastside Highway on March 6, 2007. (Lone Pine Estates Subdivision Application, Final Plat Requirement 13)

#### Conclusion of Law

Legal and physical access will be provided for each lot.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

#### Finding of Fact

The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirements 1 and 21).

- Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, construction of the internal subdivision roads, construction of the walking trail, construction of the bus shelter, and construction of the irrigation ditch fencing.

#### Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. This property has no water rights. (Lone Pine Estates Subdivision Application)
2. *The notifications document clarifies the disposition of water rights within this property. (Condition 1)*

Conclusion of Law

With the mitigating conditions of approval, this requirement will be met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. An irrigation pipeline runs in a general east to west direction along the southern portion of the property and north to south through Lot 12B-3, as shown on the plat. There is an existing 20-foot wide irrigation easement centered on that pipeline. (Lone Pine Estates Application and Preliminary Plat)
2. The Supply Ditch traverses through the property to the east of the proposed subdivision approximately 15 feet from the east property line. (Lone Pine Estates Preliminary Plat)
3. The western boundary of the irrigation easement for the Supply Ditch also forms the eastern property boundary for the proposed subdivision. (Lone Pine Estates Preliminary Plat)
4. *To ensure that the appropriate irrigation easements are in place and future owners are aware they cannot plant or build within the easements, the following requirements and conditions shall be met prior to final plat approval:*
  - *A notification of the irrigation easements for both the pipeline and Supply Ditch shall be included in the notifications document. (Condition 1)*
  - *Section 3-4-4(a)(ii)(V) requires that the irrigation easements be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

With the requirements and conditions of final plat approval, this prerequisite will be met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

1. The application states that 1.74 acres are required to meet the parkland dedication requirement. (Lone Pine Estates Subdivision Application)



2. All lots within the subdivision are proposed for residential use. (Lone Pine Estates Subdivision Application)
3. The applicant proposed cash-in-lieu of parkland dedication to meet parkland donation requirements. (Lone Pine Estates Subdivision Application)
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
5. The Ravalli County Park Board recommends that the applicant provide cash-in-lieu to meet their park obligation because the parkland dedication requirement is smaller than the desired size for a neighborhood park. (Exhibit A-1)
6. If the BCC determines that cash-in-lieu is appropriate, the applicant will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)

#### Conclusion of Law

The applicant has proposed parkland dedication that meets State Law and is suitable to the Park Board

### **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

#### **A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

##### Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR. (Lone Pine Estates Subdivision File)
2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Lone Pine Estates Subdivision File)

##### Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

**B. Applicable zoning regulations.**

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Ravalli County GIS Data)

Conclusion of Law

This proposal appears to comply with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

Finding of Fact

1. There are existing covenants on the property. (Ravalli County Clerk & Recorder's Office, Lone Pine Estates Subdivision Application)
2. Covenants relevant to this proposal state no residence shall be erected on any lot which is less than 1.75 acres in area that permitted uses include light industry and local business, and that mobile homes and junkyards are prohibited. (Lone Pine Estates Subdivision Application)
3. The applicant's proposal meets the existing covenants on the property. (Lone Pine Estates Subdivision Application)

Conclusion of Law

The subdivision proposal meets the existing covenants on the property.

**D. Other applicable regulations.**

Findings of Fact

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on January 17, 2007. (Lone Pine Estates Subdivision File)

3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

**Conclusion of Law**

With the final plat requirements, the application will meet the applicable regulations.

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

**CRITERION 1: EFFECTS ON AGRICULTURE**

**Findings of Fact:**

1. The proposed major subdivision on 34.86 acres will result in 17 lots that range in size from 2.00 acres to 2.46 acres. The property is located approximately four miles northeast of the town of Stevensville. (Lone Pine Estates Subdivision Application)
2. The subject parcels are classified for tax purposes as residential rural and vacant land rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. Parcels adjacent to the subject property are classified for tax purposes as vacant land rural and residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
4. The new soils data available from the NRCS Web Soil Survey shows that there is no prime farmland or soils of statewide importance. (Lone Pine Estates Subdivision Application)
5. The applicants submitted a Ravalli County Subdivision Ground Disturbance and Noxious Weed Management Plan that stated common tansy was found scattered throughout the property and spotted knapweed was found along the edges of the agricultural areas. (Lone Pine Estates Subdivision Application)
6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
  - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*

- *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

**Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

**Findings of Fact**

1. This property has no water rights. (Lone Pine Estates Subdivision Application)
2. An irrigation pipeline runs in general east to west along the southern portion of the property and south to north through Lot 12B-3, as shown on the preliminary plat. There is an existing 20-foot wide irrigation easement centered on the pipeline. (Lone Pine Estates Subdivision Application and Preliminary Plat)
3. The Supply Ditch traverses through the property to the east of the proposed subdivision approximately 15 feet from the east property line. (Lone Pine Estates Preliminary Plat)
4. The western boundary of the irrigation easement for the Supply Ditch also forms the eastern property boundary for the proposed subdivision. (Lone Pine Estates Preliminary Plat)
5. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, states she has concerns about the increase of development in the area and the increasing burden on the Refuge to ensure that adequate irrigation water is reaching the Refuge. (Exhibit A-10)
6. As a requirement of approval the subdivider is required construct a safety fence along the Supply Ditch. (RCSR 5-6-2)
7. *To mitigate impacts on agriculture water users facilities, the following requirements and conditions shall be met prior to final plat approval:*
  - *A notification of the irrigation easement shall be included in the notifications document. (Condition 1)*
  - *Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat. (Final Plat Requirement 2)*
  - *A notification that no water rights exist for this subdivision shall be included in the notifications document. (Condition 1)*
  - *Prior to final plat approval, the subdivider shall construct a safety fence along the eastern property boundary for the length of the Supply Ditch. (Final Plat Requirement 21)*
  - *A provision shall be included in the covenants requiring the maintenance of the safety fence along the Supply Ditch. (Condition 2)*

**Conclusion of Law**

With the conditions and requirements of final plat approval, impacts to agricultural water user facilities will be minimized.

### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

#### **Findings of Fact:**

##### **Fire District**

1. The subdivision is located within the Three Mile Rural Fire District. (Lone Pine Estates Subdivision Application)
2. Notification letters were sent to the Three Mile Rural Fire District requesting comments on October 2, 2007 and May 9, 2008, but no comments have been received from the Fire District. (Lone Pine Estates Subdivision File)
3. The Three Mile Rural Fire District has adopted the Fire Protection Standards, which address access, posting of addresses, and water supply requirements. (Exhibit A-2)
4. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
  - *Provisions in the covenants shall require that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *A provision in the covenants shall recommend that houses within the subdivision be built to IRBC standards. (Condition 2)*
  - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
  - *Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
  - *The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". (Condition 6)*

##### **School District**

5. With this subdivision, it is estimated that approximately 8.5 school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household (Census 2000).
6. Notification letters were sent to the Stevensville School District requesting comments on October 2, 2007 and May 9, 2008. (Lone Pine Estates Subdivision File)

7. A letter was received from Stevensville Schools Superintendent Kent Kultgen on May 14, 2008 requesting that the Planning Department ensure a safe pick-up/drop-off zone is provided for school children. (Exhibit A-3)
8. Lots within the subdivision are located as far as 0.5 mile from the location the bus would pick up and drop off students. (Ravalli County GIS Data)
9. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-4)
10. Stevensville district bus policy stipulates the buses can only travel on county and state maintained roads. (Exhibit A-3, Exhibit A-12)
11. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the budget per pupil would be \$8,020 for the Stevensville School District (averaging Stevensville High school and Stevensville Elementary). (Exhibit A-5)
12. The Stevensville School District has not conducted an impact fee study. Based on a study completed for area schools, Kent Kultgen estimates that that the cost for providing service would be approximately \$7,500 per single family dwelling. (Exhibit A-3)
13. The Stevensville School District sent a letter on May 13, 2008 requesting \$1,000 per lot to offset the expense of expanded enrollment. (Exhibit A-3)
14. The Stevensville School District sent a letter on June 14, 2008 stating they had a discussion with the subdivider and came to an agreement that the applicant would submit a \$700 per lot contribution to be paid to the school district on the first conveyance of each lot. (Exhibit A-11)
15. The Stevensville School District Transportation Supervisor sent a letter on June 24, 2008 stating they are requesting the applicant erect a bus shelter near the internal road approach and Eastside Highway and there not be any type of bus turnout included with this subdivision. The letter also warned that Lone Pine Estates is within the three mile limit, distance from Stevensville Public Schools, and there may be a time when the Stevensville School District buses may be filled to capacity with students outside the three mile limit. In such an event bus service would not be available to students in the Lone Pine Estates Subdivision. (Exhibit A-12)
16. The distance from the subdivision entrance to the Town of Stevensville is approximately 3.8 miles. The three mile limit for bus service would not apply to this subdivision. (Ravalli County GIS)
17. *To mitigate impacts on the School District:*
  - *The subdivider shall place an encumbrance on the final plat that stipulates \$700 per lot shall be contributed to the Stevensville School District upon first conveyance, including lease or rent, of each lot (\$11,900 total). (Condition 7)*
  - *Prior to final plat approval, the applicant shall construct an off-road bus shelter near the intersection of Lonesome Pine Trail and Eastside Highway. The bus shelter must at a minimum include a covered area of at*

*least 32 sq. feet, protection on the north and south ends of the shelter and a bench of at least 5 feet in length. (Condition 10)*

#### Roads

18. This subdivision will add 136 additional trips per day to the road network. (Lone Pine Estates Subdivision Application)
19. The property will be accessed via Eastside Highway and the internal subdivision road, Lonesome Pine Trail. (Lone Pine Estates Subdivision Application)
20. Eastside Highway is a State-maintained road. (Ravalli County GIS Data)
21. Lonesome Pine Trail is a privately-maintained road. (Lone Pine Estates Subdivision Application)
22. Lonesome Pine Trail will be located within a 60-foot wide private easement as shown on the plat. The 60-foot easement will consist of an existing 30-foot wide private easement and a proposed 30-foot wide private easement. Combined this will provide the required 60-foot wide easement. (Lone Pine Estates Subdivision Application and Preliminary Plat)
23. The applicant is required to build the subdivision road, Lonesome Pine Trail, to meet County Standards. (Lone Pine Estates Application)
24. Preliminary road plans for Lonesome Pine Trail were approved April 14, 2008 by the Ravalli County Road and Bridge Department. (Lone Pine Estates Subdivision File)
25. Overlook Trail is a private road that abuts the subdivision on the northern boundary of Lot 22-A3. The owner of Lot 22-A3 could potentially access the property from this private road. (Lone Pine Estates Preliminary Plat)
26. The Montana Department of Transportation (MDT) has reviewed the subdivision and approved the approach permit for the access off of the Eastside Highway at Lonesome Pine Trail. (Exhibit A-6)
27. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
  - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
  - *The notifications document filed with the final plat shall include a statement notifying lot owners of the no ingress/egress restriction. (Condition 1)*
  - *The notifications document filed with the final plat shall include a statement notifying lot owners of the road maintenance agreement. (Condition 1)*
  - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
  - *The final plat shall show a no-ingress/egress zone along the northern boundary of Lot 22-A3 to prevent access from this subdivision to Overlook Trail. (Condition 9 and Final Plat Requirement 2)*

#### Public Safety

28. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Lone Pine Estates Subdivision Application)

29. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on October 2, 2007 and May 9, 2008, but no comments have been received from the Sheriff's Office. (Lone Pine Estates Subdivision File)
30. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 42.5 people to the County. (Census 2000)
31. Taxes from new residents may not be immediately available to law enforcement services, E-911, or the Department of Emergency Services (DES). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)
32. The applicant is proposing a \$500-per-lot contribution to be paid into an account for Public Safety on the first conveyance of each lot. (Phone Conversation 6/12/08)
33. *To mitigate impacts on local services, the subdivider shall submit an (amount)-per-lot contribution to the County Treasurer's Office to be submitted into an account for Public Safety (Sheriff, E-911, OEM) prior to final plat approval. (Condition 8)*

#### Emergency Services

34. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on October 2, 2007 and May 9, 2008 but no comments have been received to date. (Lone Pine Estates Subdivision Application)
35. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

#### Water and Wastewater Districts

36. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Lone Pine Estates Subdivision Application)

#### Solid Waste Services

37. Bitterroot Disposal provides service to this site. (Lone Pine Estates Subdivision Application)
38. Notification letters were sent to Bitterroot Disposal requesting comments on October 2, 2007 and May 9, 2008, but no comments have been received. (Lone Pine Estates Subdivision File)

#### Utilities

39. Existing and proposed utility easements are located along Eastside Highway, Lonesome Pine Trail, and along the eastern property line of Lots 20-A4, 20A-5, 21-A4, and 21-A5 as shown on the preliminary plat. (Lone Pine Estates Subdivision Application and Preliminary Plat)
40. The proposed subdivision will be served by Northwestern Energy Company and Qwest Communications. (Lone Pine Estates Subdivision Application)



41. Notification letters were sent to Northwestern Energy Company and Qwest Communications requesting comments on October 2, 2007 and May 9, 2008, but no comments have been received by the company. (Lone Pine Estates Subdivision File)
42. *The following requirements will mitigate impacts of the subdivision on local utilities:*
  - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
  - *The applicant shall submit a utility availability certification from Northwestern Power Company and Qwest Communications prior to final plat approval. (Final Plat Requirement 17)*

#### Postal Service

43. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-7).
44. *To mitigate impacts on local services, the subdivider shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Stevensville post office's standards, and that its installation has been approved by the Stevensville post office prior to final plat approval. Alternatively, the applicant shall provide evidence from the Stevensville Post Office that a CBU(s) is not required. (Condition 13)*

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### **Findings of Fact:**

##### **Air Quality**

1. This proposed subdivision would add 17 new homes to an area of existing low density development north of Stevensville. (Lone Pine Estates Plat) (Site Visit)
2. The Montana Department of Environmental Quality (DEQ) has reviewed the PM<sub>2.5</sub> (particulate matter  $\leq 2.5$  micron) data collected in 2007 and incorporated it into the PM<sub>2.5</sub> dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. (Exhibit A-8)
3. Sources of particulate from this subdivision could include vehicles and wood-burning stoves. (Staff Determination)
4. *To mitigate impacts on air quality, the covenants shall include a recommendation that EPA-certified wood stoves should be installed to reduce*

*air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 2)*

#### Ground Water Quality

5. The applicants are proposing individual wells and wastewater facilities. (Lone Pine Estates Subdivision Application)
6. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Lone Pine Estates Subdivision Application)
7. This subdivision is located 0.45 miles from the Lee Metcalf National Wildlife Refuge. (RC GIS)
8. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated May 30, 2008 that states she has concerns about groundwater discharge causing negative impacts on the groundwater supply that charges the Refuge wetlands. She also has concerns regarding the impacts of pharmaceuticals being discharged in the groundwater. She has asked to review the groundwater discharge reports and studies. (Exhibit A-10)
9. The applicant's consultant has supplied the requested groundwater information to the Refuge Director. (Exhibit A-13)
10. *To mitigate impacts on ground water quality, the following requirements and conditions shall be met:*
  - *The applicant is required to submit the DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
  - *The covenants shall include provisions related to the proximity of the Lee Metcalf National Wildlife Refuge. (Condition 2)*

#### Light Pollution

11. The addition of three new residential homes in an area that currently has medium density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
12. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated May 30, 2008 that states she has concerns about artificial light affecting mating, migration, and predation behaviors of many different species and, consequently, the ecological community as a whole. She recommends that the subdivision follow the guidelines as suggested by the International Dark-Sky Association. (Exhibit A-10)
13. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

#### Vegetation

14. The applicants submitted a Ravalli County Subdivision Ground Disturbance and Noxious Weed Management Plan that stated common tansy was found scattered throughout the property and spotted knapweed was found along the edges of the agricultural areas. (Lone Pine Estates Subdivision Application)
15. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed

infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)

16. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Lone Pine Estates Subdivision Application).
17. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated May 30, 2008. In the letter she recommends that plant species for any common areas require minimal fertilizer. She also recommends the applicant work with the Ravalli County Weed District on a weed management plan for the subdivision to minimize the introduction of noxious weeds. (Exhibit A-10)
18. *To mitigate impacts on the natural environment:*
  - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
  - *The applicant is required to submit the approved Ground Disturbance and Noxious Weed Management Plan prior to final plat approval. (Final Plat Requirement 11)*
  - *The covenants shall include a proximity to Lee Metcalf National Wildlife Refuge section. (Condition 2)*

#### Noise Levels

19. Due to the proximity of this proposed subdivision to the Lee Metcalf Refuge, there is a possibility of conflict between waterfowl hunters and the subdivision. The sound of the lawful discharge of shotguns may create some concern by the residents. Waterfowl hunting occurs from early morning until sunset, and the season can run from September into January. In a letter dated June 9, 2008, FWP recommend a covenant to address the issue. (Exhibit A-9)
20. *To mitigate impacts of the subdivision being in close proximity to noise from hunting along the Bitterroot River, a notification of the potential noise shall be included in the covenants. (Condition 2)*

#### Historical/Archeological Sites

16. The application states that there are no known sites of historical significance on the property. (Lone Pine Estates Application)
17. *The covenants shall include an archeological resources section. (Condition 2)*

#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval

#### **CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

##### **Findings of Fact:**

8. In a letter received June 9, 2008, FWP stated that this property has an elevated

probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-9)

9. FWP stated that wildlife such as white-tailed deer, fox and skunk are found in this area, as well as an occasional black bear and possible mountain lion. Numerous small mammal and bird species (including waterfowl and birds of prey) can be found nearby, as well as nesting birds. (Exhibit A-9)
10. The property is not located within big-game winter range. (FWP Data)
11. This subdivision is located 0.45 miles from the Lee Metcalf National Wildlife Refuge. (Ravalli County GIS)
12. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated May 30, 2008. The letter contained the following recommendations to mitigate the effects on wildlife and wildlife habitat: (Exhibit A-10)
  - FWP's "living with wildlife" provisions should be included in the covenants.
  - Additional covenants should be developed in cooperation with the Refuge to minimize impacts on wildlife, including a provision prohibiting outside cats.
  - Construction, specifically tree-removal, clearing, and other dirt-moving activities, should occur outside the timeframe of April 1<sup>st</sup> to July 15<sup>th</sup>.
  - An on-site biologist should survey the construction area prior to disturbance.
13. Jake Kammerer, Jean Kammerer, Erin Holmes, and Randy Fifrick met to discuss the Refuge's concern on June 24, 2008. (Exhibit A-13)
14. According to the Montana Natural Heritage Program, the Western Spotted Skunk, Lewis's Woodpecker, Bobolink, and Bird Rookery were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property and negligible impacts for all species. (Lone Pine Estates Subdivision Application, Lone Pine Estates Subdivision File)
15. *To mitigate impacts on wildlife and wildlife habitat, the following conditions shall be met:*
  - *The covenants shall include a living with wildlife section. (Condition 2)*
  - *The covenants shall include a provision recommending full cut-off lighting. (Condition 2)*
  - *The covenants shall include provisions related to the proximity of the property to the Lee Metcalf National Wildlife Refuge. (Condition 2)*

#### **Conclusion of Law:**

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### **CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

##### **Findings of Fact:**

##### **Traffic Safety**

1. Access is proposed off Eastside Highway and Lonesome Pine Trail. (Lone Pine Estates Subdivision Application)
2. In a letter received May 23, 2008, the Ravalli County Park Board recommended that the applicants, as part of their transportation system for the safety of walking children and adults, construct a minimum five-foot wide

asphalt trail along Lonesome Pine Trail to the junction with Eastside Highway. (Exhibit A-1)

3. The applicant is proposing a four-foot wide controlled density fill trail along Lonesome Pine Trail. (Exhibit A-14)
4. The Park Board's representative on the Planning Board, Bob Cron, stated that any surface that was ADA compliant would be sufficient for the Park Board. (Planning Board Meeting on June 18, 2008, Exhibit A-14))
5. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*
6. *A five-foot wide controlled density fill trail shall be constructed within the 60-foot wide easement along the outside perimeter of Lonesome Pine Trail. The trail shall be shown on the final plat within the easement of Lonesome Pine Trail along the entire stretch of the internal road ending at the bus shelter near Eastside Highway. The trail shall be constructed prior to final plat approval. (Condition 11)*

#### Emergency Vehicle Access and Response Time

7. The proposed subdivision will be served by the Three Mile Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Lone Pine Estates Subdivision Application)
8. The property is located 5 miles from the nearest fire station. (Lone Pine Estates Subdivision Application)
9. The property is located approximately 28 miles from the Sheriff's Dispatch in Hamilton. (Lone Pine Estates Subdivision Application)
10. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

#### Water and Wastewater

11. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Lone Pine Estates Subdivision Application)
12. *To mitigate effects on water and wastewater, the DEQ Certificate of Subdivision Approval, RCEH approval shall be submitted with the final plat submittal. (Final Plat Requirement 9)*

#### Natural and Man-Made Hazards

13. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
14. This subdivision is located 0.45 miles from the Montana Rail-Link Railroad. (RC GIS)
15. The addition of three new residential homes in an area that currently has low density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)

16. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites, as shown on the plat. (Lone Pine Estates Plat)
17. The preliminary plat shows that several lots have steep slopes (greater than 25%), which are required to be identified as a no build/alteration zone on the final plat. (Lone Pine Estates Plat)
18. Unfenced irrigation supply ditches pose a significant and tangible threat to young children when located within a residential setting. The Supply Ditch is considered an irrigation supply ditch, as opposed to a lateral ditch or smaller ditch, in which case the fencing requirement of Section 5-6-2 applies. (RCSR)
19. The tank/headgate located on Lot 21A-4 poses a significant and tangible threat to young children within a residential setting. (Staff Determination)
20. *To mitigate possible impacts on public health and safety, the following conditions shall be met:*
  - *A notification of the proximity to the Montana Rail-Link Railroad shall be included in the notifications document. (Condition 1)*
  - *A notification of very limited soils shall be included in the notification document. (Condition 1)*
  - *The covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
  - *The covenants shall include a statement regarding radon exposure. (Condition 2)*
  - *The covenants shall include a provision regarding the maintenance of fencing along the Supply Ditch. (Condition 2)*
  - *The no-build/alteration zones on slopes greater than 25% shall be shown on the final plat, as proposed on the preliminary plat, and a statement about the no-build/alteration zones shall be included in the notifications document. (Conditions 1 and 12)*
  - *Prior to final plat approval the applicant shall repair/remodel the tank/headgate located on Lot 21A-4 so as not to be a public health and safety hazard. (Condition 14)*

**Conclusion of Law:**

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety

Commissioner Grandstaff then called for public comment:

Consultant to the Applicant, Jake Kammerer stated he has worked closely with the planning staff and feels most recommendations are valid; however his applicant has two issues. First is the contribution to the Open Lands Board due to the soils. Jake stated this land is not irrigated farmland, and the soils are rated as soils of local importance. And second, in regard to the walking path, the Park Board wanted a 5' wide paved path. However, after his research and study he found that control density fill would be better than asphalt because it is easier for the legs, and they would like a 4' wide path. The Applicant feels the request for a 5' path is arbitrary because ADA only requires a 3' wide path.

Randy stated there is no condition about the open lands; it is not in the final staff report.

Bob Cron of the Ravalli County Park Board addressed the issue of trails. The Park Board will bring forth recommendations for trails in the future on each subdivision. There is no legal requirement to provide a trail, so when a trail is provided, they consider that a plus. In regard to a standard width for trails, 30" is the minimum width of a trail and a turn out must be provided every 200'. He noted what Jake is proposing is acceptable according to ADA. The Park Board would like a paved pathway as it allows for bike and wheelchairs. Bob stated he is not familiar with what Jake is proposing but if the surface they are proposing holds up, that is fine with the Park Board. He also noted that a 5' width does not require turnouts. Bob then gave some information on the needs of a walking path such as the width of a bicycle and how two bikes or wheel chairs can pass each other. Also, socially 5' is better than 4'. Bob stated the 4' width with turn outs is acceptable, but 5' is better.

Commissioner Rokosch stated he understands the passing of bikes and wheelchairs together on the same trail. He asked about the turn a-rounds which provide a place for one person to wait for the other.

Commissioner Thompson asked what the traditional widths of sidewalks are. Bob stated he was unaware of that width. Architect Lee Kierig stated the standards are 5'. He suggested for the sake of convenience and propriety use the 5' standard, and added that the trail can only go 30' on a rise until a rest point. If you go over a certain grade or rise, there is a whole manner of requirements such as hand rails. Randy stated the sidewalk in front of the Administrative Center is 4'  $\frac{3}{4}$ '.

Commissioner Chilcott asked about the standard of 5'. Lee stated 5' is the American Standard (not the ADA). The accepted practices on meeting people, such as a bike on the path encourage this standard. Commissioner Chilcott asked if the Park Board requires hard surface. Bob stated if the material holds up to bikes, they would concur with Jake's recommendation.

Jake stated this material is the material that Commissioner Driscoll recommended for Claudia Driscoll Park. Lee stated that is good material.

Planning Board Chair Lee Kierig stated they did not see the report that was sent to the Commissioners. The Planning Board voted to deny this subdivision particularly due to Criteria #3 (law enforcement, emergency medical and fire services). This also relates to Criteria #6 (conditions of health and safety). Lee stated how we affect our planet found in the 'The Living Planet Report' allows 1.1 acres of farm land for each person – thus we are in a deficit for the farm land needs. Lee stated the Planning Board discussed the issue of farm land – and the need of the soil to produce a crop. The Montana Constitution is clear about protecting our lands for individuals. The Montana Code is specific in regard to addressing the cumulative effects of the densities in the rural lands. High density developments in inter-developmental rural lands needs to be reviewed due to what is happening in other states. Some of these subdivisions end up as a ghost town due to their

locations. Secondary Route #269 is in high use now but projections for gas next year is \$5.50 per gallon. This particular area has moderate development with this subdivision being high density. In the data the Planning Board looked at, they saw an issue of high ground water, which is why the ground tiles were placed there during the construction of the highway. The Planning Board and Commissioners are not being given access to some information that is necessary to make these decisions. He stated DEQ holds the information until they see how the Commissioners make a decision. In the aerial photo, off to the left of this subdivision are the water lands. Lee Metcalf Refuge Staff Members were at the Planning Board meeting and expressed their concern because the water moves toward their bird lands. They also expressed concern about the pharmaceuticals in the ground water. Lee stated in his personal view, a plan is needed so everyone knows what we can do and what the limitations are.

Public Comment was now closed. Board deliberations then occurred.

Commissioner Rokosch addressed compliance for prerequisites of approval on Page 13, Section D, confirming there were no water rights. Jake stated this is part of the Supply Ditch and there are no rights, just purchased shares. At one time there were purchased shares. Hay was farmed there by the previous owner. The orchard tracts were then sold off, and this tract has no shares. Jake believes this took place a few years ago. Jake is working with the head of the Supply Ditch and the Ditch Rider and finds the only down gradient water user utilizing the headgate on the property is Skip Rosenthal. One issue is to move the head gate onto Skip's property which Jake and the Supply Ditch are addressing. If it does not happen, then they have to provide Skip his ability to obtain water and place a roof over the tank so that it is not a safety hazard.

#### **Review of 6 criteria then began:**

**#1) Effects on Agriculture** - Jake presented a 1959 Soil Survey in the Bitterroot Valley which addresses the soils. Jake stated one of the Planning Board members felt this was good soil as he drove by. But Jake stated a person can not tell if this is good farm ground as they drive by due to the depth of what is there. He stated this is not fertile soil; it is droughty soil and becomes very dry. Some soil to the south is acidic which farmers in the area attest to as well as the Soil Survey. While this parcel grew hay, no farmer wanted to buy this as farm land. Commissioner Grandstaff stated while the previous owner could not obtain a profit, they still grew hay which makes it hay land. Jake stated that was Jim Hendrickson and he was the developer of Overtook Trail. Commissioner Grandstaff stated Jake is missing her point as this ground was farmed.

Commissioner Thompson stated the Planning Staff should be giving the Board of County Commissioners facts, and he is seeing too much emotion in this meeting. He relayed that one Planning Board member stated this 'appears' to be good farm land (no facts, just what he felt after driving by the location). Also the Lee Metcalf Refuge addresses the fertilizer as a minimal amount, yet a Planning Board member says with moderate fertilizer use this can be productive farmland. NRCS says this is not prime farm land, yet



the Planning Board member says it is. He would like to see the Planning Board give them facts; not suppositions 'on what they think'. The Planning Board should be a fact gathering board which in turn passes the facts on to the Commissioners. The Planning Board are community members from various areas and for some one from Darby to say what is there just by driving by is inappropriate. While Commissioner Thompson did see hay growing there it is extremely spotty, and not consistent. He does not see that it is excellent farm ground.

Commissioner Rokosch stated in regard to the soils data that was presented - it appears most of this area is loam soil. The Board is discussing the local importance and use of existing criteria. Commissioner Rokosch stated these soils are involved in the discussion of what constitute farms lands of importance. Randy stated the ground is classified as: 106 c; 106 d; 157 b; and 12b are addressed as local importance. There are no limitations by slopes as it is flat land.

Jake stated there is a small piece on the west side lot that has high ground water. In order to have a loam classification you need some clay to hold the water. The reason the tile is there is so it would not sub irrigate due to the construction of the East Side Highway. On the east side of the parcel is a gravel area. The middle part of the parcel is the Lone Rock series; which is the wash out from the creek. Loamy sand has a small binder to it, and sandy loam has more binder to it. It is not good soil but it is a good drain field.

Commissioner Rokosch noted the majority of the area would be classified within the local importance. He asked if there was a portion of it that could be classified as high importance. Commissioner Grandstaff stated it was unknown if that could be answered.

Commissioner Grandstaff asked if the weed plan has been addressed. Jean Kammerer stated this is a final plat requirement and the review was done by the Weed Board. Randy stated that prior to preliminary plat hearing the evaluation is required and the final plat requires the actual plan.

Commissioner Rokosch stated they will continue to have a disagreement on the Board of County Commissioners in regard to the local importance and the loss of those lands, which constitutes a negative effect. Therefore there must be mitigation of the loss of these lands. In his opinion he would consider this to be a negative impact due to the issue that these soils are considered farms lands of importance. He asked if the developer would consider a contribution. Jake stated the Conservation District (JR Iman) stated these were not good soils and he saw no issue. Commissioner Grandstaff stated that is what the developer said about Moiese Meadows. Jake stated they are not offering any mitigation. **Commissioner Rokosch and Commissioner Grandstaff voted non-sufficiently mitigated. Commissioner Chilcott and Commissioner Thompson voted sufficiently mitigated.**

Jake asked what would be mitigation. Commissioner Grandstaff stated a donation to the Open Lands program could work. Jake asked if the developer could purchase bonds for the Open Land Program. Thus, rather than asking for an outright gift, could he purchase

some of the ten million dollar bonds. Commissioner Rokosch stated that would not be a gift, a gift would be beyond the ten million dollar bonds that the tax payers approved to purchase. Commissioner Rokosch stated other important issues are to protect water resources, wildlife habitat, etc.

Commissioner Grandstaff stated some of the lots could be left as open space. Jake stated prior to the '1 for 2' they had designed this differently with a park. Commissioner Grandstaff stated the developer could still 're-do' that with 2 acre lots and a park, which would be mitigation for the loss of farm land. Jake stated they will not farm the middle of the subdivision. Commissioner Grandstaff stated they could. Jake replied that is not an option. Jake then read JR's opinion from the Conservation District.

Commissioner Grandstaff stated it is up to the Commissioners to decide if they want to use the NRCS data. Jake asked aren't they (the NRCS) the experts? Commissioner Grandstaff stated the Commissioners can use all of the information they would like to use.

Commissioner Grandstaff asked again if the developer was willing to mitigate the impact of the loss of Ag lands. **Jake stated on his own authority he can offer \$1,000.00 and nothing more.**

Commissioner Thompson read a portion of an article from the newspaper on agricultural lands and how the cost of fuel is affecting farming including the crops etc. He stated teachers are underpaid, but do they leave the business; or do we applaud them or tell them they have to remain a teacher. He stated it is the same with farmers, can we tell them they have to farm ground that loses money?

Commissioner Grandstaff replied they are not telling the farmer he has to farm; but rather everyone has to eat and it does not matter what fuel cost. She stated they are not condemning the farmer; they are simply leaving the area open so someone can farm it. Commissioner Thompson read a portion of the Montana Code for takings and justification of such. Commissioner Grandstaff stated they are simply talking mitigation for the loss of farm land. Commissioner Thompson stated his garden is 3,300 sq feet and they live off of that. Commissioner Grandstaff stated Commissioner Thompson is proving her point. Commissioner Thompson stated 'just because you take it out of agricultural land does not mean you cannot grow something on it'.

Jake stated he just spoke with John Joost who is an educated farmer. He asked John if he would buy this ground. John stated no. Commissioner Rokosch stated he appreciates this, but they need to be careful as this is an irrevocable decision; i.e., removing potential farm land that can feed future generations, which is a requirement of the state constitution.

**Re-vote on the Effects on Agriculture due to this offer: Commissioner Thompson and Commissioner Chilcott voted sufficiently mitigated. Commissioner Rokosch and Commissioner Grandstaff non-sufficiently mitigated.**

**#2) Effects on Agricultural Water-User Facilities:** Jake stated if the head gate is not moved it will be roofed over. Skip Rosenthal was now present. Skip stated he has visited with Jake and the owner of the property about this. The point of diversion is on the developer's property. The easement goes around his land perimeter. He talked with the ditch property, and he is the only one with ditch shares. So they are going to try to vacate the diversion and move it to Skip's property. Jake stated this is scheduled for the July meeting. Skip stated he is favorable to this diversion. Commissioner Grandstaff stated that could be a condition of this proposal. Commissioner Thompson addressed Condition #14 and asked could it change for relocation? Jake stated that is no problem, it is better for public safety if it is gone.

Commissioner Rokosch asked if the Supply Ditch borders on the east property line. He addressed adequate availability to the easement and any setback that would be needed. Jake and Randy both stated there isn't any easement issue and there is room for maintenance access by the Supply Ditch.

Commissioner Rokosch referred to the Conservation letter Exhibit A-13. Several concerns were addressed in regard to the impact of the refuge water right and delivery of water. In regard to this criterion, the question is water volume. Jake stated he and Randy met with the director of the refuge. The director was unaware the diversion was to the north so it has nothing to do with this subdivision at all.

**Vote: Commissioner Thompson, Commissioner Chilcott and Commissioner Grandstaff voted sufficiently mitigated. Commissioner Rokosch abstained as it could be under separate criteria for water deliver and water quality.** Jake asked if Staff addressed this meeting with the Director. Randy stated the only thing included is the email from the director.

**#3) Effects on Local Services:** Commissioner Grandstaff stated planned services i.e., law enforcement included no comment from the Sheriff. Commissioner Grandstaff would like the proposed budget and budget narrative of Sheriff for '09 included. Randy indicated he will include that.

**Commissioner Rokosch asked if the offer of \$500.00 per lot for Fire District was correct.** Jake stated that is correct.

Commissioner Rokosch noted the school district letter indicates the developer's agent spoke to them in regard to mitigation. **Commissioner Rokosch stated the offer is \$700.00 per lot for School District.** Jake stated that is correct, and that comes with the approval of the Superintendent. Commissioner Rokosch stated the average cost per student is \$8,020.00 and ½ per home would be \$4,000, so he finds it curious that the Superintendent found \$700.00 as sufficient. Jake stated the developers have always been told to go to the school to mitigate the impact which is what he did. Commissioner Rokosch stated he appreciates that, he is simply addressing the factual data provided for them on the cost of the education for the students. Thus he would take issue with the

Superintendent. Commissioner Chilcott asked if the Board is going to disregard the Superintendent's position and be arrogant. Commissioner Grandstaff replied no, but they need to be conscientious for what the local tax payers are paying for the education of the student. Jake stated they **will provide a bus shelter.**

In regard to roads within the effects of local services – Commissioner Rokosch addressed the north bound traffic on Eastside Highway and the classification for the traffic. Commissioner Grandstaff stated the conversation with DOT Engineer Shane Stack was pretty vague, and they can only address sections of the highway. Commissioner Chilcott stated there was discussion of the time frame for improvements to this section being 2011. In regard to public safety, is the offered \$500.00 per lot at first conveyance? Jake stated it should be at first conveyance as that is when the residents move in. Commissioner Rokosch stated there is increased demand as construction occurs, theft of tools, increase of traffic etc. Jake stated he disagrees. If someone goes out to cause a problem during construction ok it could be a problem, but it is low probability to cause a public safety issue. Commissioner Chilcott suggested for a 50/50 split, half upon first conveyance and half upon final plat. Jake stated he does not have authority to make that offer.

Commissioner Chilcott stated on Condition #8, upon final plat approval for public safety; it needs to be changed to first conveyance. **Randy stated they prefer final plat approval because it is easier to track. He stated he could note that change to first conveyance in the staff report.** Commissioner Chilcott addressed the code for mitigation where the commissioners can give due weight to subdivider. Jake stated he could consent to a 50/50 split but he is not authorized to do that.

Discussion included the issue of collection upon first conveyance, with the other mitigations and efficient method of contributions, final plat being the easiest way. Randy addressed the recent meeting for first conveyance and final plat; and whether the money is being collected. Right now they do not know if it is being collected upon first conveyance, but at final plat it is. Commissioner Thompson stated the Treasurer and Auditor said they will not allow this to slip through the cracks. With no houses there is no real cost to the Sheriff. Commissioner Chilcott stated the Sheriff's Office does respond to theft and burglary at a construction site, thus attempting to mitigate the services the Sheriff might need to provide service thus making a 50/50 split appropriate. Commissioner Rokosch stated until they know this money can be tracked, and while appropriate, he still feels it should be on approval of final plat.

Jake asked if it is traceable, will the Board go back in time and approve first conveyance. Because his clients are the little guy who cannot hold onto the property, and all of these monies add up and they can not pay. Commissioner Chilcott stated while he is sympathetic he needs to treat all developments the same. Commissioner Rokosch suggested to make it first conveyance and then if they determine it is traceable, they could change it. Randy stated that would be an administrative nightmare. Commissioner Grandstaff asked about a 50/50 split. Jake replied yes, he would visit with the developer.

**Vote: Commissioner Chilcott and Commissioner Thompson voted sufficiently mitigated. Commissioner Rokosch voted non-sufficiently mitigated and Commissioner Grandstaff stated the offers for the school and public safety makes this not sufficiently mitigated, therefore she voted non-sufficiently mitigated.**

**#4) Effects on Natural Environment:** Sanitarian Morgan Farrell stated there has not been a DEQ application yet, in case of any questions. Commissioner Grandstaff asked about the submittal from Overlook Trails. Morgan stated SB 90 requires a submittal but until it is actually received with fees they do not start any thing. Commissioner Grandstaff asked what the significance of the information from Overlook Trails is. Morgan replied probably some of that information will be used on this application. Commissioner Rokosch stated the review criterion allows then to review the ground water quality and quantity. It is the Commissioners' responsibility to obtain this information in regard to this deliberation and DEQ does rely on these proceedings which bear upon what they need to consider in the permitting process. Morgan stated he is working on applications with fees, and this has not been submitted. In regard to the Overlook Subdivision; that was approved and was not recorded. Jake stated the significance of this previous subdivision was that a professional engineer stated no environmental impact was necessary. This is not being submitted in lieu of the requirement for this subdivision but simply as information for assessment for the ground water quality and quantity. Morgan stated while the information has been submitted, they have advised Planning they have the information, the money has not been paid, thus no review has been started. His office can not complete the review until public comment is made. Commissioner Rokosch stated the Board should receive that information which has been submitted even though the application has not been paid for in order for the Board to review the material. He felt this material would give them some substantive data in order to help make a good decision. Procedurally that needs to be clarified.

Jake stated based upon the Lee Metcalf letter, he had given this information to the Director and he thought she was satisfied with the water issues as well as the wildlife issue. The water issues being the well log data.

Environmental Health Director Lea Jordan stated Environmental Health needs to be clear about what the Board wants to see. There are certain parts they forward on to the state, if the entire DEQ documents are given to boards, certain information might not make a lot of sense to everyone. Commissioner Grandstaff stated they need to address this during the next Environmental Health update.

Commissioner Rokosch stated in regard to the last communication by the Lee Metcalf Refuge, they were seeking review by the regional hydrologists. Therefore, given the Moiese Meadows subdivision just 200 yards to the north, there was an issue of seeking a higher level of treatment to the septic. Part of their responsibility is to make sure there is protection to the water quality. Commissioner Chilcott stated Moiese Meadows did not fall under the zoning measure and this issue was discussed for those very elements; thus the 2 acre lot size provides an adequate measure of safety for standard septic systems.

Therefore the Board has, with the 2 acre minimum lot size, mitigated those concerns for Moiese Meadows. Commissioner Grandstaff stated according to email from the Director, they have not heard back from Regional Hydrologist.

Jake stated he did not know who the Lone Rock Planning Board Representative was when they started this proposal. Jake found out he is very qualified. Mixing zones have been shortened and stacked due to the technology, and after all of that, the nitrate level has been taken to 1.4 then raised to 1.67 with the stacking. Thus, water quality and quantity is negligible when it comes to nitrate loading. Commissioner Rokosch stated this drains directly into the refuge. Jake stated that is not true. Commissioner Rokosch stated they could debate that as they do they have documentation of the tile system and how that flow goes into the refuge. Jake stated he received that tile information while he was a Sanitarian. The previous owner tried to re-rock the tiles in order to reduce the flow of ground water. That did not work as the ground water monitoring proved. While there is a considerable amount of water under the Eastside Highway, the tiles do not change the ground water in the area; therefore there isn't any history prior to the tiles. Just the history since the previous owner tried to re-rock this from Lot 11 to Overlook Trail, thus it is a huge system. Commissioner Rokosch stated the ground water does not die out across the street. Jake stated the drainage does not come from the same drainage tile. Commissioner Rokosch stated that is the information the Refuge would like to see. Jake stated this particular parcel is not tiled, the tile is less than 30' from the highway, and that information comes from the previous subdivision. Commissioner Rokosch stated this is information that needs to be clarified. Commissioner Grandstaff stated the Director may have an entirely different set of concerns after she talks to a hydrologist.

**Commissioner Rokosch made a motion to continue this hearing in order to obtain the full input from the Refuge and documentation of the tile system on the subsurface water.**

Randy asked if they can go through the remainder in order to see if other issues need to be addressed while they are waiting on the Director's concerns.

**Commissioner Rokosch withdrew his motion.**

**#5) Effects on Wildlife and Wildlife Habitat** – Commissioner Chilcott addressed the pharmaceutical issue and stated only covenants can address this. Commissioner Rokosch noted the recommendations suggested by Fish, Wildlife & Parks. Jake stated they have proposed the limitation of fertilizer and pesticides, planning native trees, and no outdoor cats allowed. Construction and tree removal clearing must occur outside the crucial time to nesting success for bird nesting. Jake stated they invited the Director for a walk thru however the Director stated Jake can do it.

**Vote: Commissioner Chilcott, Commissioner Thompson, Commissioner Grandstaff and Commissioner Rokosch voted sufficiently mitigated.**

**#6) Effects on Public Health and Safety** – Commissioner Grandstaff stated she is inclined to accept the Park Board offer of a 5' trail. Commissioner Rokosch concurred.

Commissioner Rokosch stated in regard to traffic safety, he has concerns of the additional traffic on Eastside Highway that is now at full loading, and while there are planned improvements, it is unknown the exact time frame and adequate funding. The initial report from DOT suggests the funding for walk ways, shoulder width, are all contingent upon sufficient funding. He would like this report as part of the record. Jake stated before they started the project they advised DOT what they wanted to do and they reviewed and issued an approach permit. They had the opportunity to deny at the time due to the loading, but they did not deny the developers' request. Commissioner Grandstaff stated the approach permit is simply a design. Jake stated it is placed on volume.

Commissioner Grandstaff noted they already have the Sheriff's budget narrative and proposed budget as part of the record.

Commissioner Rokosch stated groundwater also comes up under this criterion, and he would like to have that information from Environmental Health. Therefore, there was no vote on this one.

**Randy recapped the changes:**

**Criteria 1: Offer of \$1,000 prior to final plat for the mitigation of loss of agricultural land.**

**Criteria 2: amending condition #14 to state the applicant will relocate the headgate from lot 22a onto Rosenthal property.**

**Criteria 3: under condition #8; \$500.00 per lot for Fire District payable upon final plat; \$700 per lot for School Contribution payable upon first conveyance and bus shelter be provided; \$500 contribution to Public Safety split 50/50 between final plat and first conveyance.**

**Plus lacking the ground water data, they need a response from the Lee Metcalf Director.**

Jake stated he could submit this to the DEQ hydrologist if the Board wants.

Commissioner Grandstaff stated she wants the Director to receive all the information she needs and the Commissioners will obtain her comments and concerns.

Commissioner Rokosch stated he would like documentation in regard to the tiling. Jake stated he will contact the property owner across the road. The Developer is unable to give any written or verbal testimony due to his health.

**Commissioner Rokosch made a motion to continue until July 17<sup>th</sup> at 10:00 a.m.**  
**Commissioner Chilcott seconded the motion and all voted "aye".**

► In other business the Board continued a public hearing from June 23<sup>rd</sup> on the establishment and increase of fees for the Information Technology (I.T.) Department and the Treasurer's Office. Present were Treasurer JoAnne Johnson and I.T. Director Joe Frohlich.

Commissioner Grandstaff called the meeting to order asking for Public Comment. Joe Frohlich stated he would not recommend they give the raw tax data out for free. There is an access charge for an annual fee both for one and multiple users. He stated he is not prepared to state what Ravalli County should charge at this time. He noted other counties do not give the raw data out, so another consideration is to let the state give the data. Commissioner Chilcott stated he would not like to have the raw data given out then have someone manipulate the data. Therefore he suggested they simply tell the people to go to the state.

**Commissioner Chilcott made a motion approve the fee for on line access for the I.T. (Web Tax and Web Document. \$35.00 an hour for one user for 2 week access effective this date. Commissioner Rokosch seconded the motion and all voted "aye". See Resolution No. 2275.**

In regard to the Treasurer's Office, JoAnne stated she has visited with other counties in regard to the tax lists and tax records. Other counties give the public the tax list but require the person to do the background in order to find the addresses. Commissioner Chilcott asked if the Treasurers Office could break down the costs to justify these fees. Since this is public information they have a right to access it. The county should not receive a profit so they need to justify these charges. JoAnne stated if they want to come to her office she does not charge them, or if they go to the Clerk and Recorder's Office they can use the computer, otherwise if her office provides the information by email, disk or paper, it creates some work for her staff. The other counties charge as much as \$50.00 to email the tax lists. This \$40.00 fee is the labor to create the list, copy it, email or create a disk. She stated they charge .50 for one page which is what most people want. Commissioner Chilcott stated since this request is not on the high end of other counties and the amount can be justified he will make a **motion to establish the Delinquent Tax Lists, Tax Records Report and Notary fees as presented effective this date.** Commissioner Rokosch seconded and all voted "aye". See Resolution No. 2275.

The hearing was adjourned.